

*A. Lawrence*  
*#7*  
*5.18.01*

**PATENT**  
**ATTORNEY DOCKET NO. 03848-85586**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

James L. Winkler, Stephen P.A. Fodor,  
Christopher J. Buchko, Debra A. Ross,  
Lois Aldwin, and Douglas N. Modlin

Examiner: J. Ludlow

Art Unit: 1743

Serial No.: 09/498,554

Filed: February 4, 2000

Title: COMBINATORIAL STRATEGIES  
FOR POLYMER SYNTHESIS

RECEIVED  
MAY 16 2001  
TECHNOLOGY CENTER 1700

Assistant Commissioner for Patents  
Washington, D.C. 20231

**INFORMATION DISCLOSURE STATEMENT**

Applicants are hereby submitting references for the Examiner's consideration on the attendant PTO/SB/08A and PTO/SB/08B forms filed herewith. These references have arisen during litigation involving a patent that relates to the present application as well as the normal course of prosecution (See below for details on the litigation). Applicants have cited them to fulfill their duty of disclosure.

Additionally, applicants would like to notify the Examiner of inter party matters that relate to the present application. In a lawsuit with Incyte Genomics (*Incyte Genomics Inc. v. Affymetrix*, U.S. District Court, Northern District of California, San Francisco division, Case No. C 00-3210 JF.), Affymetrix counterclaimed for patent infringement under U.S. patent 5,871,928

USSN 09/498,554  
Express Mail Receipt No.

(‘928) and 6,040,193 (‘193). The ‘193 patent is related to the present application. Applicants are filing the present IDS and the attached forms PTO/SB/08A and PTO/SB/08B as a result of the “Initial Disclosure of Prior Art” filed by Incyte in the above lawsuit.

The references cited on the attached forms PTO/SB/08A and PTO/SB/08B are being called to the attention of the Examiner. Hard copies of an entire set of references are being provided to the Examiner, with a few exceptions noted below, for her convenience. In accordance with 37 CFR §1.98(d), copies of the references 271 and 273 can be found in Patent No. 6,040,193, issued March 21, 2000. A copy of reference 313 can be found in US Patent No. 6,136,269, issued October 24, 2000. Applicants are presently determining whether reference 235 can be obtained, and if so, applicants will submit a copy to the Examiner. In addition, copies of many of the references can be found in the aforementioned Patent 6,040,193, issued March 21, 2000. The following references are newly cited: Nos. 1, 3, 5, 8, 11, 16, 19, 27-28, 32, 37, 40, 42, 44, 48, 51-52, 59-60, 74-75, 77-78, 83-85, 93, 95, 98-99, 101, 104, 106, 109-110, 119-121, 123, 126, 131-132, 136-137, 140, 142-145, 147, 149-150, 152, 157, 161-162, 164-165, 167, 169-170, 172-175, 182-185, 187, 191-195, 197, 199, 201-203, 207-208, 212, 215-217, 223, 232-233, 237-238, 240-241, 250-253, 259-261, 263, 266, 275-276, 278, 280-282, 287, 289, 295, 298, 300-301, 305-308, 310-311, 315, 317, 319-321, 323-326, 332, 335, -336, and 343.


It is respectfully requested that the cited references be expressly considered during the prosecution of this application, and the references be made of record therein and appear among the “references cited” on any patent to issue therefrom. As provided for by 37 CFR §§ 1.97(g) and (h), no representation is being made that a search has been conducted or that this statement encompasses all the possible relevant information, and no inference should be made that the information and references cited are, or are considered to be material to patentability because

they are in this statement. No inference should be made that the information and references cited are prior art merely because they are in this statement.

Applicant believes that no fee is required for submission of this statement, since it is being submitted prior to the first Office Action. However, if a fee is required, the Commissioner is authorized to deduct such fee from the undersigned's Deposit Account No. 19-0733. Please deduct any additional fees from, or credit any overpayment to, the above-noted Deposit Account.

Respectfully submitted,

Dated: May 16, 2001

  
\_\_\_\_\_  
John P. Iwanicki, Reg. No. 34,628  
BANNER & WITCOFF, LTD.  
28 State Street, 28th Floor  
Boston, MA 02109  
(617) 227-7111